



Ontario: Annual Statutes

1989

c 5 Planning Amendment Act, 1989

Ontario

© Queen's Printer for Ontario, 1989

Follow this and additional works at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes

Bibliographic Citation

Planning Amendment Act, 1989, SO 1989, c 5

Repository Citation

Ontario (1989) "c 5 Planning Amendment Act, 1989," *Ontario: Annual Statutes*: Vol. 1989, Article 7.

Available at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes/vol1989/iss1/7

This Statutes is brought to you for free and open access by the Statutes at Osgoode Digital Commons. It has been accepted for inclusion in Ontario: Annual Statutes by an authorized administrator of Osgoode Digital Commons.

CHAPTER 5

An Act to amend the Planning Act, 1983

Assented to February 27th, 1989

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (e) of the *Planning Act, 1983*, being chapter 1, is repealed and the following substituted therefor:

(e) "Minister" means the Minister of Municipal Affairs.

2. Section 2 of the said Act is amended by striking out "and" at the end of clause (h) and by adding thereto the following clause:

(j) the provision of a range of housing types.

3. Section 3 of the said Act is amended by adding thereto the following subsection:

(6) Except as provided in subsection (5), nothing in this section affects nor restricts the Minister in the carrying out of the Minister's duties and responsibilities under any other section of this Act including the determining or declaring of any matter to be a matter of provincial interest and the procedure followed in so determining or declaring.

Non-
applicability
of section

4. Section 4 of the said Act is amended by adding thereto the following subsection:

(2a) Despite subsections (1) and (2), where the Minister has delegated the authority of the Minister under section 52 for the granting of consents, subsections 52 (2) to (9) and (15) to (22) apply with necessary modifications and subsections 52 (10) to (14) do not apply, in the exercise of that authority.

Where
authority to
grant
consents
delegated

5.—(1) Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the Minister has delegated any authority to a council under section 4, such council may, in turn, by by-law,

Further
delegation of
powers

and subject to such conditions as may have been imposed by the Minister, delegate any of such authority, other than the authority to approve official plans, to a committee of council or to an appointed officer identified in the by-law either by name or position occupied and such committee or officer, as the case may be, has, in lieu of the Minister, all the powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including the referral of any matter to the Municipal Board.

Limitation

(1a) Despite subsection (1), a council may not delegate the authority to approve amendments to official plans without the prior written approval of the Minister, which approval may be subject to such further conditions as the Minister considers appropriate.

(2) Subsection 5 (2) of the said Act is amended by striking out “and the provisions of subsections 52 (2) to (9) and (15) to (22) apply with necessary modifications in the exercise of that authority” in the seventh, eighth and ninth lines.

6.—(1) Subsections 17 (14), (15), (16) and (17) of the said Act are repealed and the following substituted therefor:

Hearing and
notice
thereof

(14) On a referral to the Municipal Board, the Board shall hold a hearing, of which notice shall be given to such persons or bodies and in such manner as the Board may determine.

(2) Subsection 17 (19) of the said Act is amended by striking out “adversely” in the fourth line and in the ninth line.

7. Subsection 20 (1) of the said Act is repealed and the following substituted therefor:

Lodging of
plan

(1) A certified copy of the official plan shall be lodged in the office of the clerk of each municipality to which the plan or any part of the plan applies.

8. Subsection 21 (2) of the said Act is amended by striking out “adversely” in the second line.

9. Subsection 22 (5) of the said Act is amended by striking out “adversely” in the fourth line and in the ninth line.

10. Subsection 23 (1) of the said Act is amended by striking out “adversely” in the third line.

11.—(1) Subsection 24 (2) of the said Act is repealed and the following substituted therefor:

(2) Where a council has adopted an amendment to an official plan, the council of any municipality to which the plan or any part of the plan applies may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

Validity of
by-laws
conforming
with
amendments
to plans

(2) Clause 24 (4) (b) of the said Act is repealed and the following substituted therefor:

- (b) an appeal is taken and the appeal is dismissed or the by-law is amended by the Municipal Board or as directed by the Municipal Board,

.

12. Section 28 of the said Act is amended by adding thereto the following subsection:

(7a) Where the council of the municipality proposes to exercise any power or authority under subsection (6) or (7) that would be prohibited under subsection 112 (1) of the *Municipal Act*, the Minister may approve the exercise of such power or authority in order that the exception provided for in subsection 112 (2) of the *Municipal Act* will apply.

Approval of
Minister

R.S.O. 1980,
c. 302

13.—(1) Section 33 of the said Act is amended by adding thereto the following subsection:

(7a) Notice of any condition imposed under subsection (7) may be registered in the proper land registry office against the land to which it applies.

Registration
of notice

(2) Subsection 33 (10) of the said Act is repealed and the following substituted therefor:

(10) Where a condition has been imposed under subsection (7) and the holder of the demolition permit considers that it is not possible to complete the new building within the time specified in the permit or where the holder of the permit is of the opinion that the construction of the new building has become not feasible on economic or other grounds, the permit holder may apply to the council of the municipality for relief from the conditions on which the permit was issued.

Application
to council for
relief from
conditions of
demolition
permit

(10a) Notice of application under subsection (10) shall be sent by registered mail to the clerk of the municipality not less

Notice of
application

than sixty days before the time specified in the permit for the completion of the new building and, where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

Extension of
time

(10b) Despite subsection (10a), the council may, at any time, extend the date specified in that subsection for the making of an application for relief from the conditions on which the permit was issued.

14.—(1) Subsections 34 (12) and (13) of the said Act are repealed and the following substituted therefor:

Information
and public
meeting

(12) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11) or (27), the council shall ensure that sufficient information is made available to enable the public to understand generally the zoning proposal that is being considered by the council and, for this purpose, shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed.

Time for
meeting, etc.

(13) The meeting mentioned in subsection (12) shall be held not sooner than twenty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the zoning proposal.

(2) Subsection 34 (15) of the said Act is repealed and the following substituted therefor:

Information
to agencies,
etc.

(15) The council shall forward to such boards, commissions, authorities or other agencies as the council considers may have an interest in the zoning proposal sufficient information to enable them to understand it generally and such information shall be forwarded not less than twenty days before passing a by-law implementing the proposal.

Extension of
time for
submission of
comments

(15a) Where a board, commission, authority or other agency receives information under subsection (15), such board, commission, authority or agency may in writing notify the clerk of the municipality at any time before the expiry of the twenty-day period mentioned in subsection (15) that a further period of time is required to submit comments in respect of the zoning proposal and, where notice is so given, a by-law implementing the proposal may not be passed until either the comments have been received by the council or thirty days

have elapsed from the date that the information was forwarded under subsection (15), whichever first occurs.

(3) Subsections 34 (17) and (18) of the said Act are repealed and the following substituted therefor:

(17) Where the council passes a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11) or (27), the clerk of the municipality shall give written notice of the passing of the by-law in the manner and in the form and to the persons and agencies prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (18). Notice of passing of by-law

(18) Any person, including the Minister or agency, may, not later than the twentieth day after the day that the giving of written notice as required by subsection (17) is completed, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. Appeal to O.M.B.

(18a) For the purposes of subsection (18), the giving of written notice shall be deemed to be completed, When giving of notice deemed completed

(a) where notice is given by publication in a newspaper, on the day that such publication occurs;

(b) where notice is given by personal service, on the day that the serving of all required notices is completed; and

(c) where notice is given by mail, on the day that the mailing of all required notices is completed.

(4) Subsections 34 (22), (23), (24) and (25) of the said Act are repealed and the following substituted therefor:

(22) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Board may determine. Hearing and notice thereof

(5) Subsection 34 (28) of the said Act is amended by striking out "adversely" in the third line and in the eighth line.

15. The said Act is amended by adding thereto the following section:

34a.—(1) The authority to pass by-laws under subsections 34 (1) and 37 (1) does not include the authority to pass by-laws that distinguish between persons who are related and No authority to distinguish on basis of relationship

persons who are unrelated in respect of the occupancy of a building or structure.

Idem

(2) A provision in a by-law that distinguishes between persons who are related and persons who are unrelated in respect of the occupancy of a building or structure ceases to have effect on the day this section comes into force.

16. Subsection 35 (2) of the said Act is repealed and the following substituted therefor:

Condition

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the use of the holding symbol mentioned in subsection (1).

17. Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

Condition

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the authorization of increases in height and density of development.

18. Clause 40 (8) (a) of the said Act is amended by adding thereto the following paragraph:

4. Where the land abuts a highway under the jurisdiction of the county or regional, metropolitan or district municipality, grading or alteration in elevation or contour of the land in relation to the elevation of the highway and provision for the disposal of storm and surface water from the land.

19. Subsection 41 (4) of the said Act is repealed and the following substituted therefor:

Official plan
requirement

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless there is an official plan in effect in the local municipality that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement.

20.—(1) Subsection 44 (10) of the said Act is amended by striking out “by mail” in the second line.

(2) Subsection 44 (12) of the said Act is amended by striking out “serving personally on or sending by registered mail to” in

the fourth and fifth lines and inserting in lieu thereof "filing with".

(3) Subsection 44 (13) of the said Act is amended by striking out "served or sent to him" in the second line and inserting in lieu thereof "filed".

21.—(1) Clause 46 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) in respect of any land in Ontario, exercise any of the powers conferred upon councils by section 34, 37 or 38, but subsections 34 (12) to (31) do not apply to the exercise of such powers; and
-

(2) Subsection 46 (15) of the said Act is amended by striking out "adversely" in the fourth line.

22. Subsection 49 (1) of the said Act is amended by striking out "section 52 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4, 5 and 53" in the twenty-ninth, thirtieth and thirty-first lines and inserting in lieu thereof "subsections 52 (1), (2), (17), (18), (19), (21) and (22) to the Minister includes a delegate of the Minister, as provided for in sections 4 and 54, and a reference herein and in section 52 to a council includes a delegate of a council, as provided for in sections 5 and 53".

23.—(1) Subsection 52 (7) of the said Act is amended by inserting after "sent" in the second line "either as required under subsection (5) or otherwise, including notice sent in accordance with a condition of delegation of the authority to grant consents".

(2) Subsection 52 (20) of the said Act is amended by adding at the end thereof "but where there is an appeal under subsection (7) or (8), or a referral under subsection (13) or (14), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of a period of one year from the date of the order of the Municipal Board issued in respect of the appeal or referral".

24. Subsection 56 (1) of the said Act is repealed and the following substituted therefor:

(1) The Minister may by order, in respect of land described in the order, provide that the contravention of section 49 or a predecessor thereof or of a by-law passed under a predecessor

Effect of
contravention
of s. 49, etc.

of section 49 or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day on which the order is made by the Minister.

25. Subsections 68 (1) and (2) of the said Act are repealed and the following substituted therefor:

Tariff of fees (1) The council of a municipality, by by-law, and a planning board, by resolution, may prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff.

Reduction or
waiver of
fees (2) Notwithstanding that a tariff of fees is prescribed under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee in processing an application may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the council, planning board or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

26. Clause 69 (d) of the said Act is repealed.

Commence-
ment **27.—(1) This Act, except sections 3 and 4, subsection 5 (2) and section 14, comes into force on the day it receives Royal Assent.**

Idem (2) Section 3 shall be deemed to have come into force on the 1st day of August, 1983 but subsection 3 (6) of the *Planning Act, 1983*, as enacted by section 3 of this Act, does not apply so as to affect the rights acquired by any person from a judgment or order of any court given or made on or before the 4th day of May, 1988.

(3) Section 4, subsection 5 (2) and section 14 come into force ^{Idem} on a day to be named by proclamation of the Lieutenant Governor.

28. The short title of this Act is the *Planning Amendment* ^{Short title} *Act, 1989*.

